

### REMARKS

This responds to the Office Action dated July 7, 2006. This response is being filed within the three-month shortened-statutory period for response without paying any extension of time fee (including the time given under the weekend/holiday rule of 37 C.F.R. § 1.7).

Claims 1, 10, 13, 25, 41 are amended. No claims are canceled. Claim 57 is added. As a result, claims 1-6 and 8-57 are pending in this patent application.

#### *Allowable Subject Matter*

Claims 35-36, 51-52, 55 and 56 indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, Applicant has amended the independent claims of the present patent application to incorporate what the Applicant believes was indicated to be allowable by the Examiner in the most recent and the previous Office Actions.

New dependent claim 57 was added merely to remove certain subject matter that was added to claim 1 in Applicant's last response to the previous Office Action, but which Applicant believes did not form a basis for the Examiner's indication of allowability, as clearly indicated in the previous Office Action. Therefore, Applicant respectfully submits that the amendments and new claim 57 do not raise any new issues that would require further search or consideration.

Thus, Applicant respectfully submits that all of the present claims are in allowable form, however, if the Examiner should disagree and find that language believed important to the allowance of such claims was inadvertently omitted by the Applicant, then the Examiner is invited and requested to telephone Applicant's counsel, Suneel Arora, at 612-373-6951 to discuss any such minor issues so that the claims can be put into condition for allowance without further delay.

In sum, Applicant respectfully requests reconsideration and allowance of all claims.

#### *§103 Rejection of the Claims*

Claims 1-6, 8-34, 38-50 and 54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hartley et al. (U.S. Patent No. 6,076,015) in view of Street et al. (U.S. Patent

**AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 – EXPEDITED PROCEDURE**

Serial Number: 10/612,387

Filing Date: July 2, 2003

Title: IMPLANTABLE DEVICES AND METHODS USING FREQUENCY-DOMAIN ANALYSIS OF THORACIC SIGNAL

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No. 6,589,188). Claims 37 and 53 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hartley et al. (U.S. Patent No. 6,076,015) in view of Street et al. (U.S. Patent No. 6,589,188) and further in view of Zhu et al. (U.S. 2003/0028221). In view of the above remarks, however, Applicant believes that these rejections have been overcome. Accordingly, Applicant respectfully requests withdrawal of these rejections and allowance of all claims.

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**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

JEFFREY E. STAHHMANN ET AL.

By their Representatives,

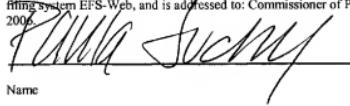
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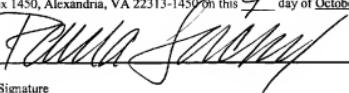
Date October 9, 2006

By Suneel Arora

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 9 day of October 2006.

  
Name

  
Signature